



## Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact [support@jstor.org](mailto:support@jstor.org).

# THE NEED OF NATIONAL LEGISLATION AGAINST ANARCHISM.

BY SENATOR J. C. BURROWS.

---

No question of greater importance can devolve upon the Congress during its approaching session than the enactment of laws dealing with and looking to the suppression of the crime of anarchy in the United States. Heretofore, we have generally closed our eyes, seemingly, to the danger to the republic lurking in the presence of this monster. Possibly, it required such an occurrence as the terrible tragedy at Buffalo to bring the matter home to the Government with sufficient force to insure legislative action. In a general sort of way, we have been convinced of the necessity of doing something to hold the disciples of anarchy in check. We knew the institution and its followers as singularly hateful and especially abhorrent in a land of equal rights and universal liberty. The assassination of men and women practised by these fanatics under other governments shocked the whole civilized world, and every law-abiding American was in full sympathy with all efforts to suppress the evil and punish the criminals. But our execrations had in them something impersonal, something remote, relating to the feelings of others rather than our own, and the horror called forth by such events abroad as the murder of the Empress of Austria quickly gave way to the press of other affairs of domestic concern. Even the Haymarket slaughter in Chicago failed to rouse us except to the extent of awakening a general desire and hope that justice would be swiftly meted out to the malefactors. When the anarchists were tried, condemned and hanged by the Cook County authorities, the outraged feelings of the people were temporarily satisfied, and the demand for general national legislation against the whole body of anarchists infesting this country, which mani-

fested itself in localities, again subsided. Men who saw deeper into the matter, who pointed out the fact that the Chicago affair was only the manifestation of a disease which if permitted to spread would infest the whole country, and should therefore be eradicated root and branch, were looked upon as alarmists, and their admonitions slightly regarded. The paragraphers in the newspapers soon fell into their old habit of treating anarchy in the United States as an innocent ghost and its adherents as a body of free-thinking, harmless fanatics. In this state of mind we continued until one of these "harmless fanatics" struck down at Buffalo the best-beloved man who has ruled over this country since Abraham Lincoln. It was a terrible awakening.

Without reflecting in the least on President McKinley's immediate predecessors, it will be conceded that the loss of no other man who has occupied the executive chair would have been felt so much in a personal sense by the mass of our citizens. His gentleness, his wisdom, his patriotism, his splendid domestic fidelity, his unvarying cheerfulness had made him the friend of every one with whom he came in contact. The hundreds of thousands who had heard him speak at one time or another were charmed by his magnetic personality. McKinley had but to show himself anywhere to carry away the hearts of all beholders. Even the stress of politics, fatal to so many, left no evil wishers behind. It is of record that Mr. McKinley had almost as many friends among the active Democrats as among Republicans, and with Republicans he was a popular idol. His concern for the workingman's welfare was made manifest on every occasion. All his efforts were directed towards securing the highest pay and shortest hours for the toilers, and the laboring people, realizing this, and in appreciation of the magnificent results he had achieved for them, almost worshipped him. Altogether, he was a man who in theory and in practice stood for the best interests of all the people as he understood it, and for everything that was praiseworthy and progressive in our national life.

In this tragedy at Buffalo there were none of the conditions that made the assassination of Lincoln at least understandable. There was not even the pretext of a reason, such as encompassed the shooting of Garfield. Not the wildest stretch of imagination could conceive any betterment for the masses in Mr. McKinley's taking off. He simply fell a victim to the unreasoning propa-

ganda of murder. The assassination was inspired by the pernicious teachings of the men and women who are the avowed enemies of all government, and who seek, through the bloody instrumentality of assassination to accomplish their anarchistic purposes.

It remains to be seen whether this crime, striking so near to the nation's heart, shall at last give some effect to the efforts so often made to secure legislation against its perpetrators and advocates; for, after all, the man who fired the shot at the President was the least of the criminals. The men and women who egged him on by their teaching and preaching were far more guilty than he. Without them he would never have been inspired with his mad design. President McKinley would be alive to-day had these others, who have not even been molested, but permitted to continue their teachings, been dealt with in the first instance as their criminality deserves.

It is astounding, and in the light of the present most regrettable, that all efforts made in the past to legislate against the anarchist have been frustrated. The punishment of every other class of evildoers is provided for under National or State laws. The severity of our national criminal laws is proverbial. Their relentless execution is so well known among the professional lawbreakers that few venture to transgress them. Whatever the chances of evading State laws and State authorities, every criminal knows that the United States authorities are merciless and tireless, that the strong arm of the federal power pursues and reaches to the uttermost corners of the earth, and that neither time nor money is spared to bring a malefactor to justice. If perchance experience teaches that any mesh in the criminal web is weak or defective, there has never been any hesitation to promptly strengthen and improve it. The laws necessary for such purpose are passed almost without debate, certainly without unnecessary delay. That is, in every case except anarchy. Here there is a gap of monstrous proportions in our political and legal structure. We have neither preventive nor punitive laws. Yet it hardly required the shooting of Mr. McKinley to arouse the nation to the realization of the fact that the anarchists are the most dangerous criminals we have to deal with in this country to-day. The burglar, the thief, the highwayman and the ordinary murderer are dangerous only in a narrow sense. They threaten

none of our institutions. The anarchists, on the contrary, are dangerous in a national view. They are a greater menace than open treason or armed rebellion, because no man may estimate their numbers, compass their plots or foresee the places or times of attack. The killing of President McKinley was as unexpected as it was unjustifiable. Any man who had prophesied the crime an hour before it occurred would have been listened to with an incredulous smile. It is this feature of anarchism that makes its existence so appalling, and demands the most drastic measures for its suppression and destruction. If one fanatic can rise out of the earth, as it were, without warning, and, regardless of consequences, shoot the President at a time when all the conditions are least alarming, then it is not unreasonable, or at least not impossible, to suppose that other fanatics might at the same time, by concert of action, strike down the Vice-President and all others in line of succession to the Presidential office. That is anarchy's dream—the wiping out of all authority and all government. In view of the past, it is idle to suppose there are not a multitude of anarchist's disciples who would cheerfully “martyr” themselves to accomplish this dream. Here in the United States, as matters stand to-day, they have a better opportunity than almost anywhere else in the world to attain the realization of such a dream. Under a monarchy the governmental head never dies. The executive power descends down the line, and the line is endless. With us it descends from the President to the Vice-President, and down through the members of the Cabinet, and there it stops, the last in the line being the Secretary of Agriculture. With us ten lives stand between order and chaos, between government and anarchy, between the condition that is essential to the preservation of society and the condition hoped and prayed for by the men and women to whom we grant the privilege of assembling in our public places under the red flag, and enunciating doctrines such as these:

“I look forward with a great deal of joy and satisfaction in the hope that ere long the scenes that were enacted in Paris will be enacted in New York, and that the streets of New York will be covered with dead bodies, and the gutters will flow with blood and the houses will be a burning mass.”

This was not the raving of a madman in an asylum, nor the whispered wish of a conspirator in a dark corner. It was the utterance of a man sane and powerful enough to sway an audi-

ence of applauding thousands, and was proclaimed openly from the speaker's platform at a publicly advertised meeting. The author, as principal speaker of the evening, was addressing a gathering assembled in Cooper Union, New York, on March 17th, 1890, to celebrate the anniversary of the Paris Commune. Every leading newspaper in the city had a reporter present, and the speech was printed *in extenso*. The hall was lined with police "to preserve public order," and all of them heard distinctly this satanic deliverance. It was afterward embraced in a report presented by the Select Committee on Immigration and Naturalization of the Fifty-first Congress, and appears on page 583 of that report. This one public utterance should be ample argument, if any were needed, for a national law that would enable the United States to deal directly with such disturbers of the public peace and enemies of law and order. The State authorities, it was said, could do nothing. The man was simply exercising his privilege of "free speech." It was not license, but "liberty," even under the laws of the State of New York, which are probably stricter in this regard than those of any other State. There the authorities have succeeded now and then in ridding themselves temporarily at least of anarchists by sending them to prison under the provisions of a law against "unlawful assembly" and "inciting to crime." Johann Most and Emma Goldman were both convicted under these statutes.

In the past it has been suggested that the States could very well be left to deal individually with this crime, and the example of New York in successfully sending Most and Goldman to prison has been quoted in support of this contention. It is due probably in no small measure to this argument that we have today no national legislation against these enemies of law and order. Yet the futility of State legislation is shown by the confession of the President's assassin that he was inspired by Emma Goldman's writings and lectures to commit his dastardly crime. As soon as the woman came out of her short imprisonment she wandered off to other States where she was free to infect the people at will with her doctrines of murder and social disorder. Such protection is no protection at all. We all know the futility of looking for uniform legislation by the States on any subjects of great importance. While New York has some stringent laws that may be applied to anarchists who fulminate against the

State, Illinois has practically none. In consequence, Chicago has for years been a perfect pesthouse of anarchy. Such a condition is worse than would be the entire absence of restrictive laws in all States, as it adds to the contempt and impudence of the anarchists if they can defy the authorities of one commonwealth by simply moving across the border and carry on their propaganda from that safe retreat. The only certain cure for the evil is national legislation. The stronger we can make such legislation within the bounds of the Constitution, the better for our people and their institutions. There is but little danger that we may go too far. The danger to be apprehended is rather that we shall not be able to go far enough because of our solicitous regard for the fundamental principles of popular government. Already we hear the cry that we must be careful, lest, in attempting to deal with the anarchists by drastic measures, we deal a blow at the foundations of our republican institutions, free speech and liberty of the press. All are anxious to preserve these essentials of free government. If they were seriously menaced or impaired, the offence might be greater even than the one committed at Buffalo, horrible as that was. But, fortunately, we may deal with anarchy on a reasonably effective basis, without infringing in the least the rights of free speech and an untrammelled press. All we need do is to use common sense; to mark well the difference between liberty and license; to hunt down relentlessly those who either by speech or in print abuse the freedom granted by our laws; to silence the men and women who come to this country from abroad to spread the doctrine that all government is wrong and should be destroyed, and that all rulers are criminals and should be killed.

Legislation making this possible under constitutional safeguards has frequently been attempted in Congress during the past ten or fifteen years, but for some reason it has always failed of consummation. There are a number of bills buried in the archives of the National Capitol, which, had they been enacted into law, would almost certainly have prevented the tragedy which so recently startled the nation. These bills were chiefly preventive. They provided for the exclusion and deportation of foreign-born anarchists wherever found entering or within our borders. True, the man who killed Mr. McKinley was a native-born American, and could not have been touched by these measures; but had we

had laws such as these in force, he would not have required attention. All the testimony at the man's trial showed that he was a peaceable, law-abiding citizen until his mind was poisoned by the teachings of Emma Goldman and other imported anarchists. He would never have dreamed of murdering the Chief Executive of the nation had our laws permitted us to silence the teachers who changed him from a law-abiding citizen to a murderer and outcast. He was not a man of original initiation. He was simply a weak, susceptible creature who was carried away by the ravings we permitted him to listen to in the name of "free speech." And so it is always. The instruments that carry out the doctrines advanced by the leaders would rarely degenerate into dangerous persons if deprived of their inspirers, the men and women who feel that with us they are at liberty to play upon the passions of men and infuriate their dupes to the point of killing, without imperilling their own necks or jeopardizing their own liberty.

There was a measure introduced in the Fifty-third Congress, in 1894, which, had it been enacted into law, would have probably prevented the Buffalo murder. Had it been passed, Emma Goldman would have been deported to her birthplace, Russia, long before she had had an opportunity to convince the McKinley assassin that the murder of a President is a divine duty. Most would have been sent back to Germany, where the authorities are anxiously waiting to lay hands on him, and the whole horde of foul conspirators and agitators who would tear down the social structure we have so carefully erected would have followed suit. The anarchist nests at Paterson, New Jersey, at Chicago and elsewhere would have been broken up, and we would not find ourselves to-day in the position of locking the stable door after the horse is stolen. The bill I refer to was known as the "Hill Bill." It was one of a class of similar measures that have been introduced in Congress from time to time, whenever the anarchist question was forced on our attention by one of the atrocious crimes which have made the name of anarchy infamous among men. I single this bill out because it came nearer to final passage than any other measure, and shows the trend of legislative thought at that time on this question. After passing the Senate without opposition and being reported favorably to the House by the unanimous vote of the Committee on

the Judiciary of that body, it was finally sidetracked by the capricious action of a single member.

This bill was approved, if not drawn, by one of the greatest lawyers in the country, John G. Carlisle, who was Secretary of the Treasury at the time of its introduction. It was revised by another great lawyer, Mr. Olney, then serving as Secretary of State. Its sponsor was Senator David B. Hill, then Chairman of the Senate Committee on Immigration, and it had the strong endorsement of Senator Chandler, who, as Chairman of the same committee for several terms preceding, had gone very extensively into the subject. The bill embraced all the best features of a large number of bills that had been introduced for years before, including several by Mr. Chandler himself. It was based in a large measure on the results of the extensive investigation made by the Select Committee of the two Houses in 1890 (House Report No. 3492), from which I have already made a quotation, and on Senate Report No. 1333, submitted by the Senate Committee on Immigration to the Fifty-second Congress, second session, February 22d, 1893. All questions of partisanship seemed to be eliminated in the matter. Republicans and Democrats were practically a unit on the question of the desirability of the bill, which had been drawn to meet the conditions arising from the wanton assassination of President Carnot in France, which sent us the usual horde of anarchists driven out of every other country by police activity. With all these considerations in its favor, the bill still failed, and it may be worth while to trace its course and the reason for its failure from the files of the Congressional Record, that we may see exactly how and why it was defeated. The bill was offered for final passage in the Senate by Mr. Hill on August 16th, 1894, after it had been agreed to by a Conference Committee representing both houses. Part of the colloquy that followed shows that any objection to the bill, sweeping as it was in its terms, that might exist was not that it went too far, as some of our friends to-day seem to fear we may go, but that it did not go far enough. So good an American and stickler for constitutional liberty as the late Senator Sherman is reported as saying (page 1,035, Congressional Record, unbound copy of August 17th):

MR. SHERMAN. "When this bill or a similar bill was before the Senate the other day, on the motion of the Senator from New York

there was a provision inserted that when any person had come into our country and had been naturalized, if it could be proven before the proper tribunal that he was not a man of good moral character, that he was not attached to the Constitution and principles of our Government, and was not disposed to the good order and happiness of the same, he should be deported. That language is omitted from this bill, and I do not see why it should not be contained in it."

Mr. HILL. "By the provisions of this bill, in the first place, if an alien immigrant should be convicted of a crime and the judge should determine upon a further hearing that the person had been guilty of a crime involving moral turpitude, and that his presence in the country would be a menace to the Government and the peace and good order of society, he may be ordered deported. It was thought wise by the conference committee not to use the words 'attached to the principles of the Constitution of the United States,' as it left too much open. As the man is an alien, of course it is not expected that he will be attached to the principles of our Constitution. An alien who behaves himself in this country would not and could not be touched under this bill, and we do not propose to do it."

\* \* \* \* \*

Mr. SHERMAN. "But it does seem to me that every person who has been admitted under our immigration laws ought to be required to stand by the declaration we require for admission; and if it be proven afterward that he is not a man of good moral character, that he is not attached to the principles of our Government, and is not disposed to the good order and peace of the same, he ought to be excluded."

Mr. HILL. "We do not touch the citizen who is naturalized. We do not think it wise to go so far as that."

Mr. SHERMAN. "I see no reason why persons who are brought into our country under our naturalization laws should not only prove at the time they are admitted that they come within its provisions, but that they should maintain that condition, or else be liable to be deported."

Mr. HILL. "I will simply say, as has been said heretofore in regard to other bills, that it is a step in the right direction. Sooner or later we may adopt the idea, which is an entirely good one, of the distinguished Senator from Ohio, but it is a little too early to do it now."

Mr. CHANDLER. "I wish to say that it was not deemed advisable by the committee to provide that every alien should be deported whom we would not be willing to naturalize and make a citizen of."

"This bill was drawn in the Treasury Department, and has been subjected to very careful scrutiny. It may not go so far as the Senator from Ohio would like to go, but it is an excellent bill, which has been carefully rewritten by the Senator from New York [Mr. HILL], the chairman of the Committee on Immigration, and there has been inserted by the committee a provision in reference to the writ of habeas corpus, which effectually guards any alien against being deported without all the proceedings which result in the order of deporting being carefully reviewed by a judicial tribunal."

"The bill is stringent enough for the time; it is sufficiently well guarded, and it is of the highest importance, in the opinion of the

committee, that it should be passed without delay and sent to the House of Representatives, where we are assured it can be immediately acted upon."

\* \* \* \* \*

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

The above quotations from this debate are particularly instructive and should be read with exceptional care. If experience teaches anything, we have certainly arrived at the period when we ought not alone to pass such a bill as was submitted, but to go even further, by adopting the further provision advocated by Mr. Sherman for the deportation of alien anarchists, even after they have become citizens. European governments that are troubled with these people do even more than this.

The measure came up in the House the same day that it passed the Senate, but was withdrawn on objection to unanimous consent,\* and referred to the Committee on Judiciary. That committee reported unanimously in its favor, and on August 22d its sponsor, Mr. Boatner, of Louisiana, called it up, asking unanimous consent for its immediate consideration. Then followed the debate† that killed it in that session, which was drawing rapidly to a close.

Mr. WARNER (John Dewitt Warner of New York). "Mr. Speaker, I must object to the consideration of that bill in its present form."

Mr. BOATNER. "I desire to make a brief statement with regard to this bill, and I trust the gentleman will not object until he hears it."

Mr. WARNER. "If the bill is to be amended, the amendments can be proposed and arranged before we are plunged into a discussion of the measure."

Mr. BOATNER. "Mr. Speaker, this bill has the approval of the Secretary of the Treasury and of the Secretary of State. It was unanimously reported by the Committee on Immigration of the other House; it was passed by the Senate unanimously, and it has been reported unanimously by the Committee on the Judiciary of this House."

Mr. WARNER. "My objection is not that the bill does not have good sponsors, but that in its present shape, it is a bad bill. It is more likely to make anarchists than to punish them."

Mr. BOATNER. "A word further, if the gentleman will permit me. The Administration also urges the very great importance of passing this bill at the present session of Congress, owing to the fact that we are advised that a large number of the most dangerous anarchists in the world are now on their way to the United States, and that at this time there is no law on the statute books which prohibits the landing of an anarchist in this country."

\*Cong. Record, Aug. 17, unbound copy, pages 10,066, 10,067 and 10,068.

†Cong. Record, Aug. 22, unbound copy, pages 10,265 and 10,266.

Mr. WARNER. "And this bill does not even define the anarchy which it proposes to punish."

Mr. BOATNER. "Just a moment. According to authority which is equal to that of the gentleman from New York, all rights of those who are charged with being anarchists are safeguarded and taken care of in this bill.

"For these reasons, I appeal to the gentleman not to put his judgment and opinion against the opinion and views of so many who are interested in this measure, which they regard as necessary for the maintenance of public order."

Mr. WARNER. "Whenever it is proposed to put into the hands of administrative officers such powers as this bill proposes that they shall employ against so large a number—hundreds of thousands—of persons who are now in this country legally, and permits them to do this without what I consider proper safeguards, I must, without regard to the backing that the bill may have, object to its consideration in this form. The gentleman himself knows that this bill should be amended; and he knows that the proper method of procedure is to prepare the amendments and have them carefully considered before we plunge into a discussion of the subject in this House."

Mr. McMILLIN. "Does not the gentleman from New York [Mr. WARNER] know that there are now five hundred anarchists on their way to this country, the description of whom has been furnished to officers of the Government?"

Mr. WARNER. "No amount of panic can scare the 'gentleman from New York' into putting into the hands of an administrative officer the detection and punishment of a crime which is not even defined in the measure which proposes to punish it by deportation. Nor will the 'gentleman from New York' be scared by any other kind of panic into providing patronage for twelve men at \$2,500 a year."

Mr. OATES. "Allow me just a moment. The gentleman's objection is that anarchy is not defined in the bill. Does he not know that where a word or term is used in a statute without definition, it always takes on its usual or common-law definition?"

Mr. WARNER. "Does not the gentleman know that there is no definition of 'anarchy' to be found in the common law?"

Mr. OATES. "I think the gentleman is mistaken——"

Mr. WARNER. "Gentlemen inform me they have been looking for it, and can not find it——"

Mr. OATES. "And if not, the word would be construed according to its ordinary or dictionary signification."

Mr. WARNER. "The Superintendent of Immigration informs me that for several months he has been attempting to draw up a measure defining anarchy, and has not been able to do it."

Mr. BOATNER. "I suggest to the gentleman from New York that doubtless he will be able to support with enormous strength of argument the position which he now assumes and will be able to impress upon the House the necessity of adopting such amendments as he advocates. The best way to get a good law on this subject is to consent that this bill be considered; the gentleman can then bring to our assistance in perfecting the bill his great ability and large information. Unfortunately he is not a member either of the Judiciary Committee or the Committee on Immigration, and therefore we have not

had the benefit of his services in considering the measure in committee, but if he will consent to its consideration now by the House, members can be enlightened and a measure can be adopted which will reflect credit upon the gentleman from New York as well as the House."

Mr. WARNER. "If anything could induce the 'gentleman from New York' to do what he knows to be a foolish thing it would be the very persuasive suggestion of the gentleman from Louisiana. But I can not help thinking that by agreeing upon amendments which he may draft, in cool deliberation and with mature judgment, not in the heat of debate, we shall arrive at better results than by any crude suggestions in that direction which I might make at this time and under the present circumstances."

The SPEAKER. "Is there objection to the present consideration of the bill?"

Mr. WARNER. "I object."

This was the end of the bill. An attempt was made to revive it at the next session with some amendments, but by that time the immediate interest in the question caused by President Carnot's assassination had died out, and the effort failed.

Read by the grave in Canton that covers the remains of our martyred President, this debate in the House makes uncomfortable literature. But for the idle words then so lightly spoken, but so effective, Mr. McKinley might be in the White House to-day, instead of sleeping the eternal sleep.

In a different way, but by means not unlike those here recorded, all other attempts to secure anti-anarchistic legislation of a preventive character have hitherto failed. For instance, when the present immigration law, which went into force on March 3, 1891, was under consideration, there were a number of other measures in Congress along the same lines, all of which excluded anarchists. One of these bills (H. R. 58, Fifty-first Congress, second session) was reported favorably by the Committee on the Judiciary, through its Chairman, Mr. Oates, of Alabama. On page 2 of the committee's report (No. 3808) submitted February 14th, 1891, it is set forth:

"The first section of the bill under consideration prohibits from landing in the United States idiots, insane, paupers, persons liable to become a public charge, persons who have been convicted of felony or other infamous crimes, polygamists, *anarchists*, etc."

Though this bill came before the House under the most favorable auspices, it failed of enactment, and the bill passed in its stead which is now on our statute books, the law of March 3d, 1891 (H. R. 13586), carefully omitted to mention "*anarchists*"

among the class of undesirable aliens to be excluded. It confined the list to "convicts, lunatics, idiots and persons liable to become a public charge."

It is too lengthy a proceeding to go into the history of all the bills of this class that aimed at the exclusion and deportation of anarchists which have been presented in previous Congresses and failed. Efforts to this end began in 1888, nearly fourteen years ago. On January 4th of that year Representative Adams, of Chicago, introduced H. R. 1291, which provided for the "removal of dangerous aliens from the territory of the United States." Of course, his inspiration was the Haymarket affair. The bill was read a first and second time and referred to the Committee on Foreign Affairs and ordered printed. It was never heard of afterwards.

Senator Mitchell introduced a bill the year following, 1889 (S. 453), in the Fifty-first Congress, first session, "to prohibit objectionable foreign immigration, encourage desirable immigration, defend American institutions and protect American labor." This bill provided:

"That from and after the passage of this act it shall be unlawful for any person, a subject of any foreign government, as well as those who are now within the limits of the United States, and who may hereafter leave the United States and attempt to return, as those who have never been here, or having been here, have departed from the United States, who is an avowed anarchist or nihilist, or who is personally hostile to the principles of the Constitution of the United States, or to the form of government of the United States; or who is an idiot, etc., to land in any of our ports."

This section, apparently reasonable enough, was violently attacked at the hearing before the Select Committee of the Fifty-first Congress, twice before alluded to. On page 25 of this committee's report (House Report No. 3472) Mr. Rosewater, editor of the *Omaha Bee* one of the witnesses, declared:

"It shows to what an unreasonable extent some men would go in their idea to Americanize, as they call it, all our institutions. Right there let me say they do not Americanize them, but they do just the opposite."

Mr. Rosewater was animated by the most laudable feeling undoubtedly, but he fairly voiced the sentiment of those who are always so apprehensive that our position as the asylum for the oppressed may be imperilled, that they go in the other direction.

In the Fifty-second Congress those who held true to the de-

sire to get rid of anarchists went on with the work. Senator Chandler, as Chairman of the Committee on Immigration, submitted "Report 1333, to accompany Senate Bill 3786," to the Senate on February 22d, 1893. On page 2 of this report, which advised the passage of the bill, the committee said:

"The third exclusion is that of 'persons belonging to societies which favor or justify the unlawful destruction of property or life.'

"It may be difficult to detect immigrants belonging to such societies, but as the law now stands they can not be excluded even if they boldly admit that they are members of organizations whose purposes are to be accomplished by fire and dynamite, by murder and assassination. Under the proposed law, whatever sentiments an individual may entertain, he may come in if he does not belong to such an organized band; if he does, he ought to be kept out of this land of law, order, and peaceful methods."

This conclusion was not impeached by any one; no active opposition to the bill manifested itself, any more than it did in any other case; but, like every other bill that threatened the anarchist, it was permitted to sleep.

It is not the least remarkable thing about this phase of the subject that the men who introduced these bills were almost always among the most influential in their respective houses. The list includes such names as Hale, Hoar, Lodge, Milliken, McMillan, McCreary, Owen, Washburn, Quay and others already mentioned. That the spasmodic bills of new and inexperienced members might be regularly sidetracked without any special design is easily conceivable; but when the legislative efforts of such men as I have mentioned, made perseveringly, invariably meet with failure, there is almost room for believing that there is something besides mere accident to account for the disastrous result attending every attempt to pass preventive legislation against anarchists.

In the matter of punitive legislation, as distinguished from preventive, the opinion has been very generally expressed that Congress should and probably will pass a law that shall make an attack on the President, even if it has no fatal consequences, a capital offence punishable in the United States Courts. Practically every other government in the world has such a law. Our position has always been that the President is simply a man like all other men, and entitled to no greater protection than the humblest citizen. In theory, this is sound, democratic conclusion; and if we had only well balanced, moral, law-abiding people in the

country, it could very safely be left to stand as it is. Unfortunately, the facts are not in harmony with this theory, and the time has come when we ought to deal with the condition uninfluenced by mere sentiment. What are the facts? While the law holds the President to be simply a man as all other men, and classes attacks on him as it would an attack on the humblest citizen, yet it is known that the fatal blows aimed at our Presidents are not directed against them as men, but as rulers. Lincoln was shot, not because of a personal grudge, but because as President he had done those things in government that were obnoxious to a band of assassins organized to take his life. Garfield would in all probability be alive to-day if he had not been elected Chief Executive. The creature who murdered McKinley declared:

"I had no feeling against the President. I shot him because he was the ruler, and held such power as I do not think any man should have."

It was the government, not the individual, at which the blow was aimed. We should look this fact squarely in the face, and act accordingly, to safeguard the republic. We should enact a law making it not only a capital offence to attack the person of the President while President, but all others who stand in the line of succession as well. The Vice-President and the members of the Cabinet should be hedged about with like defences. The people are thoroughly aroused on this question, and the demand is general for prompt and effective action. Mere sentimentality must not stand in the way of effective legislation.

The first attempt at legislation of this character in recent years was made after the assassination of Garfield. Mr. Lapham, then Senator from New York, introduced a bill (S. 34) in the Forty-seventh Congress that provided:

"For the punishment of persons unlawfully attempting to take the life of the President of the United States, or others clothed by the Constitution and laws with the discharge of the duties of the office of President."

It read:

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

"That if any person or persons shall hereafter attempt by any means whatever to take the life of the President or Vice-President of the United States, or the President *pro tempore* of the Senate of the United States, or the Speaker of the Senate of the United States, or the Speaker of the House of Representatives of the United States, or of

any other person or persons who shall be authorized by law in any contingency to perform the duties of the office of President of the United States as provided in the Constitution of the United States, except under such circumstances as would render the attempt justifiable or excusable by the common law, such person or persons shall, on conviction, be punished by imprisonment for life, such imprisonment to be by solitary confinement or at hard labor, in the discretion of the Court."

Mr. Lapham was an excellent lawyer, one of the leaders of the New York bar, and any measure drawn by him is valuable in the suggestions it contains upon this subject. Of course, the Presidential succession has been changed since this bill was drawn, but otherwise it may very well stand as a guide, though I would make death the punishment for such an attack instead of imprisonment for life.

That our Presidents might be in special danger from anarchists was foreseen for years, but about the only attempt at legislation against this special class along these lines was in 1894. On June 25th of that year Representative William A. Stone introduced a bill in the Fifty-third Congress that attempted to define anarchists and provide for their punishment if they attempted in this country their favorite practice of bomb throwing, which is so general with them abroad. The bill read as follows:

"That any person or persons who shall belong to, or who shall be appointed, designated or employed by any society or organization existing in this or in any foreign country which provides in writing or by verbal agreement, understanding or countenance for the taking of human life unlawfully or for the unlawful destruction of buildings or other property where the loss of life would be the probable result of such destruction of property, shall be deemed an anarchist.

"2. That any person or persons being anarchists as defined by the first section of this act, who shall attempt the life of any person holding office, elective or appointive, or employed under the Constitution and laws of the United States, or who shall attempt the destruction of any building or buildings or other property where the loss of life of any such United States official or employee would be the probable result of such destruction of buildings or other property shall, upon trial and conviction of such offence in any circuit or district court of the United States of the district where such offence is attempted, be sentenced to death by hanging, which sentence shall be executed by the Marshal of the District in accordance with the sentence of the Judge before whom the case is tried."

This bill is interesting principally because of its attempt at defining the term "anarchist." This question has always been somewhat of a puzzle, and may have contributed materially to the invariable defeat of anti-anarchist legislation. It came up

at almost every hearing and discussion when efforts were made to frame suitable legislation. At the hearing before the Senate Committee on Immigration appointed to consider the "Proposition for the suspension of immigration for one year," sitting at Washington on April 23d, 1892, there was an instructive colloquy between the Chairman (Senator Chandler) and Mr. Lodge, then a member of the House of Representatives, who was called as a witness. On page 147, Senate Report 1333, it appears in full. I reproduce the following extract:

The CHAIRMAN. "The bill which you introduced excludes polygamists, anarchists, and nihilists. Polygamists were inserted in the law of last year, and I would like your impression as to anarchists or nihilists, and whether it is feasible to exclude such persons, ascertaining who they are and keeping them out."

Mr. LODGE. "I appreciate the difficulty that is always presented by any of these vague terms, general terms, and at the same time I think it would cover certain specific cases. I think those, for instance, who have taken part in the recent demonstrations in Paris, who were absolutely known to belong to anarchist societies and to believe in those doctrines, would come under the description in this bill. I think it is a description which is in several other bills."

The CHAIRMAN. "It is in bills which I myself have introduced, but the more I think of it the more difficulty I see in its enforcement."

Mr. LODGE. "'Nihilist' is somewhat vague, but the word 'anarchist' is pretty well defined just now."

The CHAIRMAN. "The word 'socialist' has been introduced in some bills. Do you think it would be wise to exclude them, describing them simply in that way?"

Mr. LODGE. "I do not think that is a class you can put in a bill."

The CHAIRMAN. "What on the whole is your impression?"

Mr. LODGE. "I think the term 'anarchist' is a proper one, because that refers to a class of persons who believe that the reform of society is to be brought about by blowing up their fellow-beings."

The CHAIRMAN. "Is it well to keep out of the country anybody on account of his beliefs?"

Mr. LODGE. "I should say an anarchist who was actively engaged or an avowed member of those societies. I believe that those who believe as does Ravachol are not fit to come into this country."

The CHAIRMAN. "How would it do to make that the test, 'members of societies of anarchists or nihilists?'"

Mr. LODGE. "That might be done."

When the Hill Bill, which passed the Senate, was up for discussion, the matter of defining an anarchist was threshed out at great length, and I must confess no very satisfactory conclusion was reached. Mr. Hill, in defending his bill,\* gave the best definition he could, saying:

\*Cong. Record, 53d Congress, 2d session, p. 9,697, unbound copy.

"Mr. President, it is not proposed by this measure to make belief in anarchy a crime. Therefore it is not necessary by the express terms of the bill to define what anarchy is. No provision is made for an indictment; no provision is made for punishment; but provision is made that such a person known as an anarchist shall not land in this country, and if he does land, by certain proceedings to be taken by or through the Secretary of the Treasury that person may be deported.

"The first section of the substitute provides—

"That no alien anarchist shall hereafter be permitted to land at any port of the United States or be admitted into the United States; but this shall not be so construed as to apply to political refugees or political offenders.

"That last clause was deemed necessary so as to avoid all question in regard to persons in other countries who are engaged in some proceeding to overturn one government in order to replace it with another.

"An anarchist, according to all well-defined definitions, does not believe in any civil government whatever. He cannot be a political refugee within the meaning of the statutes upon that subject. He believes in no form of civil or social government. He is a disturber of the peace of society. He believes in social chaos. He believes in having no government whatever with which to guide humanity. That provision which I have read is the first section of the bill."

Mr. Hoar thought this description somewhat "nebulous," and declared that he hoped "that the wit of committees, of members of legislative bodies, and of the American people may hereafter set itself to devising a substitute which may be better" (p. 9708).

"But," he concluded, "having stated these objections and confessing the great weight they have with me, I still say that if the committee come to us saying that is the best they can do, I am prepared to concur with them in passing the bill as a means of meeting the present evil and the present condition."

That we have the absolute right to exclude "anarchists," no matter how wide the difference of opinion as to the definition may be, cannot be doubted. That question has been definitely settled. Even so ardent an advocate of human rights as Mr. Hoar conceded this in his argument, saying (p. 9708):

"But I agree that we have the absolute right to exclude persons of other countries from coming here, and we have a right to put upon them the burden of showing their fitness, not merely in the light of their past conduct, but their fitness, judging them by their purpose, judging them by their opinions, judging them by the nature of their pursuits and thoughts, and the burden of showing that they come with safety and benefit to the country to which they come."

We have, finally, the authority of the Supreme Court, whose decision covering this point is cited in House Report No. 1460,

page 3. This decision was handed down in the case of *Nichimura Ekin vs. The United States* and *Charles A. Garter*, and it held:

"That every sovereign nation has the power, as inherent in sovereignty and essential to self-preservation, to forbid the entrance of foreigners within its domains, or to admit them only upon such conditions as it may see fit to prescribe. That the supervision of the admission of aliens into the United States may be intrusted by Congress to the Department of the Treasury. That the final determination of the facts in the case may be intrusted by Congress to executive officers, and in such a case, as in all others in which a statute gives a discretionary power to an officer to be exercised by him upon his own opinion of certain facts, he is made the sole and exclusive judge of the existence of those facts, and no other tribunal, unless expressly authorized by law to do so, is at liberty to re-examine or controvert the facts upon which he acted. That the decision made by the inspector of immigration in that case was final and conclusive, and that the petitioner was not unlawfully restrained of her liberty."

With the constitutional right and power to legislate upon this subject unquestioned, the American Congress will come far short of performing its duty or meeting public expectation if it fails to devise some measure to protect the republic from these assassins of civil government.

J. C. BURROWS.